



## Filing Receipt

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**DOCKET NO. 53222**

<b>PETITION TO REVOKE T.P.</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>INVESTMENTS' CERTIFICATE OF</b>	<b>§</b>	
<b>PUBLIC CONVENIENCE AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>NECESSITY PURSUANT TO TEX.</b>	<b>§</b>	
<b>WATER CODE § 13.254 AND 16 TAC</b>	<b>§</b>	
<b>§ 24.113</b>	<b>§</b>	

**COMMISSION STAFF'S MOTION FOR ENTRY OF A DEFAULT ORDER**

The Staff of the Public Utility Commission of Texas files this Motion for Entry of a Default Order in accordance with 16 Texas Administrative Code (TAC) § 22.183. In support thereof, Commission Staff shows the following:

**I. BACKGROUND**

On February 14, 2022, Commission Staff filed a petition to revoke Certificate of Convenience and Necessity (CCN) No. 12064 belonging to T.P. Investments (TP). In its petition, Commission Staff recommend, based on underlying supporting information, that TP is no longer providing continuous and adequate water service to the certificated area of CCN 12064, that the facilities necessary to provide continuous and adequate water service to the certificated area are inactive, and that TP's water CCN be revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).<sup>1</sup> Commission Staff included the disclosure required under 16 TAC § 22.183(b)(1) and Commission Staff sent the petition to TP's last known address as required by 16 TAC § 22.183(b)(2).

Under 16 TAC § 22.183(a), a default occurs when a party fails to request a hearing within 30 days after service of notice of an opportunity for a hearing. In this matter, Commission Staff provided notice of an opportunity for a hearing and included a warning to TP that a default could be granted if TP failed to timely request a hearing within 30 days of service and a reference to statutes and rules involved.

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<sup>1</sup> Staff additionally requests that the caption of this case be revised to "PETITION TO REVOKE T.P. INVESTMENTS' CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.245." When it submitted its Open Docket Request in this matter, Staff erroneously cited a now repealed and replaced section of the Texas Administrative Code.

**DOCKET NO. 53222**

**CERTIFICATE OF SERVICE**

I certify that on April 1, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of TP in accordance with 16 TAC § 22.183(b).

/s/Van Moreland  
Van Moreland

**ATTACHMENT ONE**  
**AFFIDAVIT OF ROSE PUENTE**

DOCKET NO. 53222

PETITION TO REVOKE T.P.  
INVESTMENTS' CERTIFICATE OF  
PUBLIC CONVENIENCE AND  
NECESSITY PURSUANT TO TEX.  
WATER CODE § 13.254 AND 16 TAC  
§ 24.113

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PUBLIC UTILITY COMMISSION  
  
OF TEXAS

AFFIDAVIT OF ROSE PUENTE

STATE OF TEXAS §  
TRAVIS COUNTY §

BEFORE ME, the undersigned authority, on this day personally appeared, Rose Puente, and being by me duly sworn, upon oath declared that the statements and capacity acted in are true and correct.

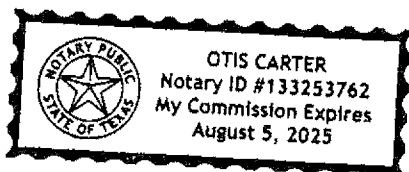
"My name is Rose Puente. I am the Legal Assistant in the Division of Compliance and Enforcement of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one, and I am competent to make this Affidavit. In accordance with 16 Texas Administrative Code § 22.183(b), on February 14, 2022, I mailed, by certified mail, a copy of Commission Staff's Petition to Revoke T.P. Investments' Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing, filed on February 14, 2022, to the last known address of T.P. Investments.

"On April 1, 2022, I mailed by certified mail, a copy of Commission Staff's Motion for a Default Order filed on April 1, 2022, to T.P. Investments' last known address. Please see the attached tracking information for each item, a copy of the petition, and a copy of the Motion for Entry of a Default Order.

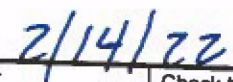
"T.P. Investments  
2000 East Lamar, Suite 150  
Arlington, TX 76006"

  
AFFIANT: Rose Puente

SWORN TO AND SUBSCRIBED BEFORE ME THIS 1 DAY OF APRIL 2022.



  
Notary Public for the State of Texas



Name and Address of Sender

Atten: ROSE PUENTE

Public Utility Comm. of TX  
1701 N. Congress Ave.  
P O Box 13326  
Austin, Texas 78701

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- ☐ Return Receipt for Merchandise
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**Postmark with Date of Receipt.**

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1.

MA.B.D.D., Inc.  
2600 One American Center  
601 Congress  
Austin, TX 78701

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Handling Charge - if Registered and over \$50,000 in value

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Restricted Delivery	
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**ATTACHMENT TWO**  
**PROPOSED DEFAULT ORDER**



**DOCKET NO. 53222**

**PETITION TO REVOKE T.P.  
INVESTMENTS' CERTIFICATE OF  
PUBLIC CONVENIENCE AND  
NECESSITY PURSUANT TO TEX.  
WATER CODE § 13.254 AND 16 TAC  
§ 24.245**

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**PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**PROPOSED DEFAULT ORDER**

This Default Order addresses Commission Staff's petition to revoke T.P. Investments' (TP) Certificate of Convenience and Necessity (CCN) for violations of the Texas Water Code and Commission rules. The Commission grants the petition, by default, and revokes TP's CCN No. 12064.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Certificate of Convenience and Necessity**

1. On September 8, 1995, the Texas Natural Resource Conservation Commission granted water CCN number 12064 to TP.
2. TP's water CCN number 12064 certifies an area located approximately 14 miles north of Austin, Texas.
3. TP is no longer providing water utility service to customers, and any facilities previously used to provide continuous and adequate water services are no longer active.

**Commission Staff's Petition**

4. On February 14, 2022, Commission Staff filed its petition in this proceeding, in which it seeks to revoke TP's CCN No. 12064 for failure to provide continuous and adequate water service.
5. The petition alleges that TP is no longer providing water utility service to customers, and that any facilities previously used to provide continuous and adequate water service are no longer active.

**Notice**

6. TP's last known address in the Commission's records is:

T.P. Investments  
2000 East Lamar, Suite 150  
Arlington, TX 76006

7. On April 1, 2022, Commission Staff filed the affidavit of Rose Puente, Legal Assistant with the Commission's Division of Compliance and Enforcement, attesting that a copy of the petition was sent by certified mail, return receipt requested, to TP's last known address on February 14, 2022.
8. In her affidavit, Ms. Puente also asserts that a copy of Commission Staff's motion for entry of a default order was sent by certified mail, return receipt requested, to TP's last known address identified above on April 1, 2022.
9. The petition notified TP of the legal authority and the Commission's jurisdiction over this matter, cited to particular sections of the statutes and rules involved, and provided a statement of the factual allegations, as provided under Texas Government Code § 2001.052(a).
10. The petition also notified TP that TP was entitled to request a hearing within 30 days after the filing of the petition and included the following admonition in at least 12-point, bold-faced type, as provided by 16 Texas Administrative Code (TAC) § 22.183(b)(1):

**In accordance with 16 TAC § 22.183, Commission Staff hereby notifies TP that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if TP fails to request a hearing within 30 days after service of this petition.**

**Evidentiary Record**

11. On April 1, 2022, Commission Staff filed a motion requesting the affidavit of Ms. Puente be admitted into evidence.
12. In Order No. \_\_ filed on \_\_\_\_\_, the administrative law judge admitted the following into evidence the affidavit of Ms. Puente and supporting documents, attached to Commission Staff's Motion for Entry of a Default Order,

**Revocation of Certificate of Convenience and Necessity**

13. A water utility that has received a CCN from the Commission is obligated under Texas Water Code (TWC) § 13.250(a) and 16 TAC § 24.247 to provide continuous and adequate service to every consumer within the boundaries of its certificated area.
14. Under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), the Commission may revoke the CCN of a water utility if, after notice and opportunity for hearing, the Commission finds that the CCN holder is no longer providing or has failed to provide continuous and adequate service to all or part of the area located within its certificated boundaries.
15. The evidence in the record indicates that TP is no longer providing water utility service to customers, and that any facilities previously used to provide continuous and adequate water services are no longer active.

**Motion for Disposition by Default**

16. On April 1, 2022, Commission Staff filed a motion for entry of a default order.
17. The motion for default was served on TP in the same way that the petition was served.

**Grounds for Default**

18. More than 30 days have passed since service of the petition to TP.
19. TP did not request a hearing on the merits and did not respond to the petition.
20. More than 30 days have passed since service of the motion for entry of a default order.
21. TP did not respond to the motion for entry of a default order.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this petition under TWC § 13.254.
2. TP is a water utility under TWC § 13.002(23) and 16 TAC § 24.3(31).
3. Under TWC §§ 13.041(a) and 13.042(e), the Commission has jurisdiction and authority to regulate and supervise the business, rates, services, and operations of each water utility in Texas that is not located within the incorporated limits of a municipality exercising exclusive original jurisdiction under TWC § 13.042(b)

4. TP is the holder of water CCN No. 12064.
5. A water utility that has received a CCN from the Commission is obligated under TWC § 13.250(a) and 16 TAC § 24.247 to provide continuous and adequate service to every consumer within the boundaries of its certificated area.
6. Under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), the Commission may revoke the CCN of a water utility if, after notice and opportunity for hearing, the Commission finds that the CCN holder is no longer providing or has failed to provide continuous and adequate service to all or part of the area located within its certificated boundaries.
7. Because TP is no longer providing water utility service to customers and any facilities previously used to provide continuous and adequate water services are no longer active, the Commission is entitled to revoke TP's CCN No. 12064 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
8. Adequate notice was provided to TP in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
9. TP failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing, as provided in 16 TAC § 22.183(a).
10. The requirements for disposition by default in 16 TAC § 22.183 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Commission deems the allegations in Commission Staff's petition as true and admits those facts into evidence.
2. Commission Staff's petition and motion for default order are granted.
3. TP's Certificate of Convenience and Necessity is revoked.
4. The Commission is not constrained in any manner from requiring additional action or penalties for violations.

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas, the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADMAS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**